



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/461,061 12/15/99 Mc Crae 6056-260

EXAMINER

HOPE ROBINSON

ART UNIT	PAPER NUMBER
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1653 26

DATE MAILED:

INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Hope Robinson (3) Hollie Khalilian

(2) Christopher Low (4)

Date of Interview 9/25/03

Typ : ☐ Telephonic ☐ Personal (copy is given to ☐ applicant ☒ Applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☐ No If yes, brief description:

Agreement ☒ was reached. ☐ was not reached.

Claim(s) discussed:

Identification of prior art discussed: Auerswald et al. and Colman et al.

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant will consider inserting "consisting of" before the formula to indicate that nothing can be added to the compound to obviate the present grounds of rejection.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Not : You must sign this form unless it is an attachment to another form.

CHRISTOPHER S. F. LOW
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p 202-842-8800

FACSIMILE INFORMATION SHEET

TO: Examiner Hope Robinson FROM: Holli Khalilian DIRECT
DIAL: 202-354-1341
DATE: September 24, 2003 DOCUMENT NAME: Proposed Issues for the Interview
NUMBER OF PAGES: INCLUDING COVER 4
TELEPHONE NUMBER: 703-308-6231 FAX NUMBER: 703-746-5128

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PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re:	Patent application of Keith R. McCrac	: Attorney Docket No.: 6056-260 : : Group Art Unit: 1653
Serial No.:	09/461,061	: : Examiner: Hope A. Robinson
Filing Date:	December 15, 1999	: : :
For:	INHIBITION OF ANGIOGENESIS BY HIGH MOLECULAR WEIGHT KININOGEN DOMAIN 3 PEPTIDE ANALOGS	: : : :

PROPOSED ISSUES FOR THE INTERVIEW

This is in response to Examiner's Robinson request for a written agenda to disclose outstanding issues that would be discussed in the upcoming interview with Examiner Robinson and supervisory Examiner Low.

The main issue in this case is: "what is the subject of the transitional word "comprising" in the preamble of Claim 1?" In other words, "whether the transitional word "comprising" in the preamble of Claim 1 defines the scope of the peptide or the pharmaceutical composition?" The Examiner believes that the transitional word "comprising" in the preamble of Claim 1 defines the scope of the peptide. Applicant respectfully disagrees.

Claim 1 recites:

1. A pharmaceutical composition comprising a pharmaceutically acceptable carrier and ^{consisting of} a compound of the formula X1-SEQ ID NO:1-X2 wherein

X1 is from zero to twelve amino acids, and

X2 is from zero to twelve amino acids.

In re: Patent application of Keith R. McCrae

Attorney Docket No.: 6056-260
147539-35926

Serial No.:09/461,061

Applicant respectfully submits that, as it is evident from the language of Claim 1, the transitional word "comprising" clearly defines the scope of the pharmaceutical composition with respect to the elements such as a pharmaceutically acceptable carrier and links the components of the claim. The word "comprising" opens the claimed composition to additional elements that may be included in the pharmaceutical composition and does not change the scope of the claimed fixed-formula compound contained within the composition.

Indeed, as it is amply evident from a reading of Claim 1, the peptide of the pharmaceutical composition claimed is of a fixed length (8 to 32 amino acid long) and has a specific formula of X1-SEQ ID NO:1-X2, wherein X1 and X2 are each from zero to twelve amino acids. SEQ ID NO:1 is Asn-Asn-Ala-Thr-Phe-Tyr-Phe-Lys, which corresponds to a portion of human kininogen (HK) domain 3. Assuming that X1 and X2 are each zero to twelve amino acids flanking SEQ ID NO:1, the shortest claimed peptide is 8 amino acids long, and the largest claimed peptide is 32-amino acids long.

Relying on the erroneous interpretation of the subject defined by the transitional word "comprising", as allegedly defining the peptide, the Examiner rejects Claims 1-7 as being anticipated by Auerswald. The rejection alleges that although the sequences disclosed by Auerswald exceed 12 amino acid residues, the claims recite open language such as "comprising" and "has". Thus, the rejection concludes that the reference sequence is identical to the claimed sequences. Applicant respectfully disagrees.

Applicant respectfully submits that the word "has" does not appear in Claim 1 and, for the reasons stated above, Auerswald's peptide is not the same as the claimed peptide. Auerswald discloses a 125-amino acid peptide corresponding to HK peptide, which peptide is about four times larger than the claimed peptide.

In re: Patent application of Keith R. McCrae

Attorney Docket No.: 6056-260
147539-35926

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Accordingly, Auerswald's peptide does not anticipate the claimed peptide.

Respectfully submitted,

Keith R. McCrae

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